

machinery and equipment.

c. Transportation costs.

Cost of bonds, property damage, liability, and workers compensation insurance premiums; unemployment insurance contributions; and social security taxes.

The Engineer will compare the Department's records with those furnished by the Contractor and make any necessary adjustments. When these records are agreed upon and signed by both parties, said records become the basis of payment for the expenses incurred, but do not preclude subsequent adjustment based on a later audit by the Department.

The Contractor's cost records pertaining to expenses under this Subsection shall be open to inspection or audit by representatives of the Department as provided in [Subsection 105.19](#) J.

- B. **Non-Allowable Damages or Expenses.** The expenses listed in A. above shall constitute the sole cost(s) and expense(s) to which the Contractor shall be entitled on any delay claim submitted for additional compensation or settlement of any claim made under these Specifications. The parties agree that the Department will have no liability for the items listed in [Subsection 105.19](#) H.1. through H.8.

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Section 106 - Control of Material

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106.01 Source of Supply and Quality Requirements. All materials used shall meet the requirements of the Contract. The Contractor

shall promptly notify the Engineer of the proposed sources of materials to be used in the work prior to delivery. The Engineer has the option of conditionally approving materials at the supply source. If it is determined during use of conditionally approved material that the materials do not meet the Contract requirements, material incorporated in the work shall be corrected to the satisfaction of the Engineer or removed. All materials incorporated in the work shall be new unless otherwise specified in the Contract.

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106.02 Samples, Tests, and Referenced Specifications. Materials will be inspected, tested, and approved by the Engineer before incorporation into the work. Work in which untested materials are used without approval are used at the Contractor's risk and may be deemed unacceptable. Payment will not be made for materials found to be unacceptable. Unacceptable materials shall be removed from the work solely at the Contractor's expense.

Unless otherwise designated, material tests will be performed by and at the expense of the Department in accordance with the most recent test methods of the Department, AASHTO, or ASTM in effect on the date of advertisement for bid proposals. When any specification or test is identified in the form of an AASHTO or ASTM number succeeded by "Modified" it refers to an AASHTO or ASTM specification or test as modified by the Department's Materials Manual in effect on the date of advertisement for bid proposals. If there is a difference in the test methods, the order of precedence in the test procedure used will be as follows:

- A. Materials Manual
- B. AASHTO
- C. ASTM

Material sampling or splitting operations will be performed or observed by the Department. The Department reserves the right to retest and subsequently reject materials not meeting the Contract requirements that have been previously tested and conditionally accepted at the source of supply. Materials to be used are subject to inspection, testing, or rejection prior to or during incorporation into the work. Copies of any or all test results will be made available to the Contractor upon request.

When in the judgement of the Engineer, inconsequential quantities and use of materials are required, they may be covered by a field inspection report of materials in lieu of the minimum requirements for sampling materials.

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106.03 Certification of Compliance. The Contract or the Department's Materials and Testing Schedule will designate materials that can be incorporated in the work if accompanied by certificates of compliance from the manufacturer. The certificates of compliance shall state that the materials or assemblies provided fully comply with the specification requirements of the Contract and

shall be signed by the manufacturer. Each lot of certified materials or assemblies delivered to the Project must be accompanied by a certificate of compliance clearly identifying the materials delivered and the specification requirement satisfied.

Materials or assemblies used on the basis of certification of compliance may be sampled and tested by the Department and if determined not to be in conformance with Contract requirements will be rejected in accordance with [Subsection 105.03](#).

The form and distribution of the certificates of compliance shall be as provided in the Contract or the Department's Materials and Testing Schedule requirements.

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106.04 Manufacturing Plant Inspection. The Engineer may inspect materials at the acquisition or manufacturing source. Manufacturing plants may be inspected for compliance with specified manufacturing methods. Material samples will be obtained for testing for compliance with material quality requirements. In the event plant inspection is undertaken, the following conditions shall be met:

- A. The Engineer will have the cooperation and assistance of the Contractor and producer of the materials;
- B. The Engineer will have full access at any time to all parts of the plant concerning the manufacture or production of the materials being furnished;
- C. The Contractor shall arrange for an approved building for the use of the inspector with such building to be located conveniently near the plant and conforming to the requirements of [Subsection 106.05](#);
- D. Provide and maintain adequate safety measures; and
- E. It is understood that the Department reserves the right to retest all materials which have been tested and accepted at the source of supply after the same have been delivered and to reject all materials which, when retested, do not meet the requirements of these Specifications.

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106.05 Field Laboratory. The Contractor shall provide a field laboratory consisting of a suitable building in which to house equipment for performing all required tests. The field laboratory for testing at portland cement concrete plants shall conform to the requirements of [Subsection 812.07](#). The field laboratory for testing at asphalt cement concrete plants shall conform to the requirements of [Subsection 823.06](#).

Payment for all field laboratories shall be incidental to the work in the Section for which the laboratory or facility is provided.

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106.06 Buy American Contract Requirement. In accordance with Section 165 of the Surface Transportation Assistance Act of 1982, Title 23 of the United States Code, the following applies to all contracts:

For this Contract, all iron, coating materials, steel materials, and coating of steel must be produced in the United States, except a minimal amount of foreign steel materials may be used provided the cost of materials does not exceed 0.1% of the total Contract cost or \$2,500.00, whichever is greater.

A. Certificate of Compliance.

A Certificate of Compliance shall be furnished to the Department by the Contractor. The Certificate shall be signed by the Contractor to the effect that the materials and/or assembled materials will be of domestic origin and will comply in all respects with the requirements of the Contract. Mill test reports verifying that steel products are of domestic origin as defined in the Special Provisions shall be provided. All materials accepted on the basis of Certificate of Compliance may be sampled and tested at any time. Use of material on the basis of Certificate of Compliance shall not relieve the Contractor of responsibility for incorporating material in the Project conforming to the requirements of the Contract. Any material not conforming to such requirements shall be subject to rejection whether in place or not. The Department reserves the right to refuse to permit the use of material on the basis of Certificate of Compliance.

B. Domestic Material.

Domestic materials are those which are melted, cast-formed, shaped, drawn, extruded, forged, fabricated, or otherwise processed in the United States.

106.07 Storage and Handling of Materials. Materials shall be stored and handled to preserve their fitness for the work. Bulk materials shall be transported in vehicles constructed to prevent loss or segregation after loading and measuring. Stored materials shall be stored in a manner to facilitate prompt inspection and will be subject to inspection and retesting prior to incorporation in the work in accordance with [Subsection 106.04](#).

An approved portion of the right-of-way may be used for the storage of materials and the Contractor's plant and equipment. Additional storage space required shall be provided at the Contractor's expense and option. Private property shall not be used for storage purposes without written permission of the owner or lessee. If

requested, copies of such written permission shall be furnished to the Engineer.

Storage and plant sites shall be restored to their original condition by and at the Contractor's expense.

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106.08 Unacceptable Materials. Materials not conforming to the requirements of the Contract will be rejected and removed immediately from the Project unless the defects have been corrected and approved by the Engineer.

106.09 Disposal of Unacceptable Materials. All waste materials removed by earthwork operations shall become the property of the Contractor and shall be removed from the Project or otherwise disposed of as specified. Unless specific disposal sites for waste materials generated by the clearing and grubbing operation are designated on the Plans, the Contractor shall procure disposal sites. Such disposal sites shall be submitted to and approved by the Engineer prior to utilization by the Contractor. The submittal shall include a plan of the disposal area, proposed sediment and erosion control devices, existing and proposed final contours, and proposed security measures. All permit requirements such as those required by the Department of Natural Resources and Environmental Control (DNREC) and the U.S. Army Corps of Engineers shall be met by the Contractor when preparing and utilizing off-site disposal areas. The Contractor shall submit a similar proposal for use of designated disposal sites if such detail is not included in the Contract documents. Costs for preparing these plans are incidental to [Section 201](#). For disposal sites designated on the Plans, payment will be made separately under applicable bid items for all necessary erosion and sediment controls, seeding, and mulching. For Contractor-procured disposal sites, such costs are incidental to [Section 201](#).

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106.10 Department-Furnished Material. Material furnished by the Department will be delivered or made available to the Contractor at locations specified in the Contract.

The cost of handling and placing Department-furnished materials after they are delivered to the Contractor shall be included in the Contract price for the item in which they are used. Deductions will be made from any monies due for any shortages, deficiencies, and damage that may occur to the material after delivery. Demurrage charges resulting from the Contractor's failure to accept the materials at the designated time and location of delivery will also be deducted from monies due the Contractor.

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Section 107 - Legal Relations and Responsibility to the Public

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